

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BOARD OF TRUSTEES OF THE AFTRA
RETIREMENT FUND, in its capacity as a
fiduciary of the AFTRA Retirement Fund,
individually and on behalf of all others similarly
situated,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,
Defendant.

Consolidated as
Civil Action No. 09-00686 (SAS) (DF)

ECF Case

BOARD OF TRUSTEES OF THE IMPERIAL
COUNTY EMPLOYEES' RETIREMENT
SYSTEM, in its capacity as a fiduciary of the
Imperial County Employees' Retirement System,
individually and on behalf of all others similarly
situated,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,
Defendant.

THE INVESTMENT COMMITTEE OF THE
MANHATTAN AND BRONX SURFACE
TRANSIT OPERATING AUTHORITY PENSION
PLAN, in its capacity as a fiduciary of the
MaBSTOA Pension Plan, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,
Defendant.

**PLAINTIFFS' UNOPPOSED MOTION FOR AN ORDER APPROVING THE
PROPOSED PLAN OF ALLOCATION AND APPROVING DISTRIBUTION
OF THE NET SETTLEMENT FUND TO THE CLASS**

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The Board of Trustees of the AFTRA Retirement Fund (“AFTRA”), the Board of Trustees of the Imperial County Employees’ Retirement System (“ICERS”), and the Investment Committee of the Manhattan and Bronx Surface Transit Operating Authority Pension Plan (“MaBSTOA”), in their respective capacities as fiduciaries of the AFTRA Retirement Fund, the Imperial County Employees’ Retirement System and the MaBSTOA Pension Plan (collectively, the “Named Plaintiffs” or “Plaintiffs”), respectfully move this Court for an Order approving the Plan of Allocation and approving distribution of the Net Settlement Fund to the Class.¹

In its Judgment Approving Class Action Settlement (“Judgment”) dated June 5, 2012, the Court approved the terms of the Stipulation of Settlement (“Stipulation”) executed by the parties on March 28, 2012 as fair, reasonable and adequate. The Judgment is now Final (as that term is defined in the Stipulation) given that there have been no appeals from the Judgment and the time for filing or noticing any such appeal has expired. Named Plaintiffs therefore move the Court, in accordance with paragraph 13 of the Stipulation, for an Order: (i) formally approving the proposed Plan of Allocation; (ii) approving the Settlement Administrator’s determinations concerning the timeliness and validity of the Claims; and (iii) directing payment of the Net Settlement Fund to Authorized Claimants from the Escrow Account per the Plan of Allocation.

Class Members were first provided information concerning distribution of the Net Settlement Fund in the Class Notice, copies of which were mailed directly to Class Members on April 5, 2012. The Class Notice described the proposed Plan of Allocation in detail, stating that each Class Member that submitted a completed Acknowledgement form would be entitled to receive a distribution – either in the form of cash or a credit toward a Sigma Collateral Deficiency owed to JPMC Bank – based on the principal amount of each Class Member’s

¹ All capitalized terms not otherwise defined in this motion shall have the meaning ascribed to them in the Stipulation of Settlement.

holdings of Sigma Notes as of September 30, 2008 as a percentage of the aggregate principal amount of Sigma Notes held by all members of the Class as of that same date. The Class Notice mailing also included a personalized insert that provided each Class Member with his or her respective principal amount of Sigma Notes as of September 30, 2008 and the amount of any Sigma Collateral Deficiency owed to JPMC Bank. Class Members were provided an opportunity to object to or request exclusion from the Settlement based on such information prior to the Final Approval Hearing, yet as the Court is aware, every Class Member opted to participate in the Settlement by submitting a timely Acknowledgment form.

As required by paragraph 13 of the Stipulation of Settlement, Lead Counsel provided Class Members with a second opportunity to review and object to information concerning distribution of the Net Settlement Fund under the Settlement Agreement. Lead Counsel provided each Class Member, via letter sent Certified Mail on July 24, 2012, with information showing (a) the principal amount of Sigma Notes held by that Class Member as of September 30, 2008; (b) the amount, if any, of the Class Member's Sigma Collateral Deficiency; (c) the amount, if any, the Class Member will receive in distributions in accordance with the proposed Class Distribution Order; and (d) the form of any such distribution (cash or credit toward the Class Member's Sigma Collateral Deficiency, as set forth in paragraph 35 of the Stipulation of Settlement). The letter also reiterated how the amount of the Net Settlement Fund to which each Class Member is entitled, whether in the form of cash or a credit to JPMC Bank, would be calculated under the Plan of Allocation. *See* Plan of Allocation, attached hereto as Exhibit A.

Class Members were given twenty-one days, or until August 14, 2012, to object to or contest the distribution calculations or their distribution under the Plan of Allocation. To date,

no Class Members have objected to or contested the proposed Plan of Allocation, the specific distribution calculations provided or their individual distribution under the Settlement.

Further basis for this motion is set forth in the accompanying Declaration of Stacy Roe of Rust Consulting, Inc. See Declaration of Stacy Roe of Rust Consulting, Inc., filed contemporaneously herewith.

Named Plaintiffs respectfully submit that the Plan of Allocation and the proposed distribution of the Net Settlement Fund to Class Members pursuant to the Plan of Allocation as described in the Roe Declaration is consistent with the Stipulation and this Court's prior Judgment.

Lead Counsel will, contemporaneously with the filing hereof, supply the Court with a proposed Order for consideration.

Dated: August 17, 2012

Respectfully submitted,

**KESSLER TOPAZ
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/s/ Peter H. LeVan, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on this day a true and correct copy of Plaintiffs' Unopposed Motion for an Order Approving the Plan of Allocation and Approving Distribution of the Net Settlement Fund to the Class, along with the Declaration of Stacy Roe filed in support thereof, was served upon the following counsel by Notices of Electronic Case Filing generated by ECF:

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Dated: August 17, 2012
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By: /s/ Peter H. LeVan, Jr.
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